

Union Calendar No. 541

106TH CONGRESS
2^D SESSION

H. R. 4904

[Report No. 106–897]

To express the policy of the United States regarding the United States relationship with Native Hawaiians, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2000

Mr. ABERCROMBIE introduced the following bill; which was referred to the Committee on Resources

SEPTEMBER 26, 2000

Additional sponsor: Mr. KILDEE

SEPTEMBER 26, 2000

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on July 20, 2000]

A BILL

To express the policy of the United States regarding the United States relationship with Native Hawaiians, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. FINDINGS.**

2 *Congress makes the following findings:*

3 *(1) The Constitution vests Congress with the au-*
4 *thority to address the conditions of the indigenous,*
5 *native people of the United States.*

6 *(2) Native Hawaiians, the native people of the*
7 *Hawaiian archipelago which is now part of the*
8 *United States, are indigenous, native people of the*
9 *United States.*

10 *(3) The United States has a special trust rela-*
11 *tionship to promote the welfare of the native people*
12 *of the United States, including Native Hawaiians.*

13 *(4) Under the treaty-making power of the United*
14 *States, Congress exercised its constitutional authority*
15 *to confirm a treaty between the United States and the*
16 *government that represented the Hawaiian people,*
17 *and from 1826 until 1893, the United States recog-*
18 *nized the independence of the Kingdom of Hawaii, ex-*
19 *tended full diplomatic recognition to the Hawaiian*
20 *government, and entered into treaties and conventions*
21 *with the Hawaiian monarchs to govern commerce and*
22 *navigation in 1826, 1842, 1849, 1875, and 1887.*

23 *(5) Pursuant to the provisions of the Hawaiian*
24 *Homes Commission Act, 1920 (42 Stat. 108, chapter*
25 *42), the United States set aside 203,500 acres of land*
26 *in the Federal territory that later became the State of*

1 *Hawaii to address the conditions of Native Hawai-*
2 *ians.*

3 *(6) By setting aside 203,500 acres of land for*
4 *Native Hawaiian homesteads and farms, the Act as-*
5 *sists the Native Hawaiian community in maintain-*
6 *ing distinct native settlements throughout the State of*
7 *Hawaii.*

8 *(7) Approximately 6,800 Native Hawaiian les-*
9 *sees and their family members reside on Hawaiian*
10 *Home Lands and approximately 18,000 Native Ha-*
11 *waiians who are eligible to reside on the Home Lands*
12 *are on a waiting list to receive assignments of land.*

13 *(8) In 1959, as part of the compact admitting*
14 *Hawaii into the United States, Congress established*
15 *the Ceded Lands Trust for 5 purposes, 1 of which is*
16 *the betterment of the conditions of Native Hawaiians.*
17 *Such trust consists of approximately 1,800,000 acres*
18 *of land, submerged lands, and the revenues derived*
19 *from such lands, the assets of which have never been*
20 *completely inventoried or segregated.*

21 *(9) Throughout the years, Hawaiians have re-*
22 *peatedly sought access to the Ceded Lands Trust and*
23 *its resources and revenues in order to establish and*
24 *maintain native settlements and distinct native com-*
25 *munities throughout the State.*

1 (10) *The Hawaiian Home Lands and the Ceded*
2 *Lands provide an important foundation for the abil-*
3 *ity of the Native Hawaiian community to maintain*
4 *the practice of Native Hawaiian culture, language,*
5 *and traditions, and for the survival of the Native Ha-*
6 *waiian people.*

7 (11) *Native Hawaiians have maintained other*
8 *distinctly native areas in Hawaii.*

9 (12) *On November 23, 1993, Public Law 103–*
10 *150 (107 Stat. 1510) (commonly known as the Apol-*
11 *ogy Resolution) was enacted into law, extending an*
12 *apology on behalf of the United States to the Native*
13 *people of Hawaii for the United States role in the*
14 *overthrow of the Kingdom of Hawaii.*

15 (13) *The Apology Resolution acknowledges that*
16 *the overthrow of the Kingdom of Hawaii occurred*
17 *with the active participation of agents and citizens of*
18 *the United States and further acknowledges that the*
19 *Native Hawaiian people never directly relinquished*
20 *their claims to their inherent sovereignty as a people*
21 *over their national lands to the United States, either*
22 *through their monarchy or through a plebiscite or ref-*
23 *erendum.*

24 (14) *The Apology Resolution expresses the com-*
25 *mitment of Congress and the President to acknowledge*

1 *the ramifications of the overthrow of the Kingdom of*
2 *Hawaii and to support reconciliation efforts between*
3 *the United States and Native Hawaiians; and to have*
4 *Congress and the President, through the President's*
5 *designated officials, consult with Native Hawaiians*
6 *on the reconciliation process as called for under the*
7 *Apology Resolution.*

8 *(15) Despite the overthrow of the Hawaiian gov-*
9 *ernment, Native Hawaiians have continued to main-*
10 *tain their separate identity as a distinct native com-*
11 *munity through the formation of cultural, social, and*
12 *political institutions, and to give expression to their*
13 *rights as native people to self-determination and self-*
14 *governance as evidenced through their participation*
15 *in the Office of Hawaiian Affairs.*

16 *(16) Native Hawaiians also maintain a distinct*
17 *Native Hawaiian community through the provision of*
18 *governmental services to Native Hawaiians, including*
19 *the provision of health care services, educational pro-*
20 *grams, employment and training programs, children's*
21 *services, conservation programs, fish and wildlife pro-*
22 *tection, agricultural programs, native language im-*
23 *mersion instruction, and traditional justice programs,*
24 *and by continuing their efforts to enhance Native Ha-*
25 *waiian self-determination and local control.*

1 (17) *Native Hawaiians are actively engaged in*
2 *Native Hawaiian cultural practices, traditional agri-*
3 *cultural methods, fishing and subsistence practices,*
4 *maintenance of cultural use areas and sacred sites,*
5 *protection of burial sites, and the exercise of their tra-*
6 *ditional rights to gather medicinal plants and herbs,*
7 *and food sources.*

8 (18) *The Native Hawaiian people wish to pre-*
9 *serve, develop, and transmit to future Native Hawai-*
10 *ian generations their ancestral lands and Native Ha-*
11 *waiian political and cultural identity in accordance*
12 *with their traditions, beliefs, customs and practices,*
13 *language, and social and political institutions, and to*
14 *achieve greater self-determination over their own af-*
15 *fairs.*

16 (19) *This Act provides for a process within the*
17 *framework of Federal law for the Native Hawaiian*
18 *people to exercise their inherent rights as a distinct*
19 *aboriginal, indigenous, native community to reorga-*
20 *nize a Native Hawaiian government for the purpose*
21 *of giving expression to their rights as native people*
22 *to self-determination and self-governance.*

23 (20) *The United States has declared that—*

1 (A) the United States has a special respon-
2 sibility for the welfare of the native peoples of the
3 United States, including Native Hawaiians;

4 (B) Congress has identified Native Hawai-
5 ians as a distinct indigenous group within the
6 scope of its Indian affairs power, and has en-
7 acted dozens of statutes on their behalf pursuant
8 to its recognized trust responsibility; and

9 (C) Congress has also delegated broad au-
10 thority to administer a portion of the Federal
11 trust responsibility to the State of Hawaii.

12 (21) The United States has recognized and re-
13 affirmed the special trust relationship with the Native
14 Hawaiian people through—

15 (A) the enactment of the Act entitled “An
16 Act to provide for the admission of the State of
17 Hawaii into the Union”, approved March 18,
18 1959 (Public Law 86–3; 73 Stat. 4) by—

19 (i) ceding to the State of Hawaii title
20 to the public lands formerly held by the
21 United States, and mandating that those
22 lands be held in public trust for the better-
23 ment of the conditions of Native Hawaiians;
24 and

1 (ii) transferring the United States re-
2 sponsibility for the administration of the
3 Hawaiian Home Lands to the State of Ha-
4 waii, but retaining the authority to enforce
5 the trust, including the exclusive right of the
6 United States to consent to any actions af-
7 fecting the lands which comprise the corpus
8 of the trust and any amendments to the Ha-
9 waiian Homes Commission Act, 1920 (42
10 Stat. 108, chapter 42) that are enacted by
11 the legislature of the State of Hawaii affect-
12 ing the beneficiaries under the Act.

13 (22) The United States continually has recog-
14 nized and reaffirmed that—

15 (A) Native Hawaiians have a cultural, his-
16 toric, and land-based link to the aboriginal, na-
17 tive people who exercised sovereignty over the
18 Hawaiian Islands;

19 (B) Native Hawaiians have never relin-
20 quished their claims to sovereignty or their sov-
21 ereign lands;

22 (C) the United States extends services to
23 Native Hawaiians because of their unique status
24 as the aboriginal, native people of a once sov-

1 *ereign nation with whom the United States has*
2 *a political and legal relationship; and*

3 *(D) the special trust relationship of Amer-*
4 *ican Indians, Alaska Natives, and Native Ha-*
5 *waiians to the United States arises out of their*
6 *status as aboriginal, indigenous, native people of*
7 *the United States.*

8 **SEC. 2. DEFINITIONS.**

9 *In this Act:*

10 *(1) ABORIGINAL, INDIGENOUS, NATIVE PEO-*
11 *PLE.—The term “aboriginal, indigenous, native peo-*
12 *ple” means those people whom Congress has recog-*
13 *nized as the original inhabitants of the lands and*
14 *who exercised sovereignty prior to European contact*
15 *in the areas that later became part of the United*
16 *States.*

17 *(2) ADULT MEMBERS.—The term “adult mem-*
18 *bers” means those Native Hawaiians who have at-*
19 *tained the age of 18 at the time the Commission pub-*
20 *lishes the final roll, as provided in section 7(a)(3) of*
21 *this Act.*

22 *(3) APOLOGY RESOLUTION.—The term “Apology*
23 *Resolution” means Public Law 103–150 (107 Stat.*
24 *1510), a joint resolution offering an apology to Native*
25 *Hawaiians on behalf of the United States for the par-*

1 *ticipation of agents of the United States in the Janu-*
2 *ary 17, 1893 overthrow of the Kingdom of Hawaii.*

3 (4) *CEDED LANDS.*—*The term “ceded lands”*
4 *means those lands which were ceded to the United*
5 *States by the Republic of Hawaii under the Joint*
6 *Resolution to provide for annexing the Hawaiian Is-*
7 *lands to the United States of July 7, 1898 (30 Stat.*
8 *750), and which were later transferred to the State of*
9 *Hawaii in the Act entitled “An Act to provide for the*
10 *admission of the State of Hawaii into the Union” ap-*
11 *proved March 18, 1959 (Public Law 86–3; 73 Stat.*
12 *4).*

13 (5) *COMMISSION.*—*The term “Commission”*
14 *means the commission established in section 7 of this*
15 *Act to certify that the adult members of the Native*
16 *Hawaiian community contained on the roll developed*
17 *under that section meet the definition of Native Ha-*
18 *waiian, as defined in paragraph (7)(A).*

19 (6) *INDIGENOUS, NATIVE PEOPLE.*—*The term*
20 *“indigenous, native people” means the lineal descend-*
21 *ants of the aboriginal, indigenous, native people of the*
22 *United States.*

23 (7) *NATIVE HAWAIIAN.*—

24 (A) *Prior to the recognition by the United*
25 *States of a Native Hawaiian government under*

1 the authority of section 7(d)(2) of this Act, the
2 term “Native Hawaiian” means the indigenous,
3 native people of Hawaii who are the lineal de-
4 scendants of the aboriginal, indigenous, native
5 people who resided in the islands that now com-
6 prise the State of Hawaii on or before January
7 1, 1893, and who occupied and exercised sov-
8 ereignty in the Hawaiian archipelago, including
9 the area that now constitutes the State of Ha-
10 warii, and includes all Native Hawaiians who
11 were eligible in 1921 for the programs authorized
12 by the Hawaiian Homes Commission Act (42
13 Stat. 108, chapter 42) and their lineal descend-
14 ants.

15 (B) Following the recognition by the United
16 States of the Native Hawaiian government under
17 section 7(d)(2) of this Act, the term “Native Ha-
18 waiian” shall have the meaning given to such
19 term in the organic governing documents of the
20 Native Hawaiian government.

21 (8) NATIVE HAWAIIAN GOVERNMENT.—The term
22 “Native Hawaiian government” means the citizens of
23 the government of the Native Hawaiian people that is
24 recognized by the United States under the authority
25 of section 7(d)(2) of this Act.

1 (9) *NATIVE HAWAIIAN INTERIM GOVERNING*
 2 *COUNCIL.—The term “Native Hawaiian Interim Gov-*
 3 *erning Council” means the interim governing council*
 4 *that is organized under section 7(c) of this Act.*

5 (10) *ROLL.—The term “roll” means the roll that*
 6 *is developed under the authority of section 7(a) of this*
 7 *Act.*

8 (11) *SECRETARY.—The term “Secretary” means*
 9 *the Secretary of the Department of the Interior.*

10 (12) *TASK FORCE.—The term “Task Force”*
 11 *means the Native Hawaiian Interagency Task Force*
 12 *established under the authority of section 6 of this*
 13 *Act.*

14 **SEC. 3. UNITED STATES POLICY AND PURPOSE.**

15 (a) *POLICY.—The United States reaffirms that—*

16 (1) *Native Hawaiians are a unique and distinct*
 17 *aboriginal, indigenous, native people, with whom the*
 18 *United States has a political and legal relationship;*

19 (2) *the United States has a special trust rela-*
 20 *tionship to promote the welfare of Native Hawaiians;*

21 (3) *Congress possesses the authority under the*
 22 *Constitution to enact legislation to address the condi-*
 23 *tions of Native Hawaiians and has exercised this au-*
 24 *thority through the enactment of—*

1 (A) *the Hawaiian Homes Commission Act,*
2 *1920 (42 Stat. 108, chapter 42);*

3 (B) *the Act entitled “An Act to provide for*
4 *the admission of the State of Hawaii into the*
5 *Union”, approved March 18, 1959 (Public Law*
6 *86–3; 73 Stat. 4); and*

7 (C) *more than 150 other Federal laws ad-*
8 *ressing the conditions of Native Hawaiians;*

9 (4) *Native Hawaiians have—*

10 (A) *an inherent right to autonomy in their*
11 *internal affairs;*

12 (B) *an inherent right of self-determination*
13 *and self-governance;*

14 (C) *the right to reorganize a Native Hawai-*
15 *ian government; and*

16 (D) *the right to become economically self-*
17 *sufficient; and*

18 (5) *the United States shall continue to engage in*
19 *a process of reconciliation and political relations with*
20 *the Native Hawaiian people.*

21 (b) *PURPOSE.—It is the intent of Congress that the*
22 *purpose of this Act is to provide a process for the reorga-*
23 *nization of a Native Hawaiian government and for the rec-*
24 *ognition by the United States of the Native Hawaiian gov-*

1 ernment for purposes of continuing a government-to-govern-
2 ment relationship.

3 **SEC. 4. ESTABLISHMENT OF THE UNITED STATES OFFICE**
4 **FOR NATIVE HAWAIIAN AFFAIRS.**

5 (a) *IN GENERAL.*—There is established within the Of-
6 fice of the Secretary of the Department of the Interior the
7 United States Office for Native Hawaiian Affairs.

8 (b) *DUTIES OF THE OFFICE.*—The United States Of-
9 fice for Native Hawaiian Affairs shall—

10 (1) effectuate and coordinate the special trust re-
11 lationship between the Native Hawaiian people and
12 the United States through the Secretary, and with all
13 other Federal agencies;

14 (2) upon the recognition of the Native Hawaiian
15 government by the United States as provided for in
16 section 7(d)(2) of this Act, effectuate and coordinate
17 the special trust relationship between the Native Ha-
18 waiian government and the United States through the
19 Secretary, and with all other Federal agencies;

20 (3) fully integrate the principle and practice of
21 meaningful, regular, and appropriate consultation
22 with the Native Hawaiian people by providing timely
23 notice to, and consulting with the Native Hawaiian
24 people prior to taking any actions that may affect
25 traditional or current Native Hawaiian practices and

1 *matters that may have the potential to significantly*
2 *or uniquely affect Native Hawaiian resources, rights,*
3 *or lands, and upon the recognition of the Native Ha-*
4 *waiian government as provided for in section 7(d)(2)*
5 *of this Act, fully integrate the principle and practice*
6 *of meaningful, regular, and appropriate consultation*
7 *with the Native Hawaiian government by providing*
8 *timely notice to, and consulting with the Native Ha-*
9 *waiian people and the Native Hawaiian government*
10 *prior to taking any actions that may have the poten-*
11 *tial to significantly affect Native Hawaiian resources,*
12 *rights, or lands;*

13 *(4) consult with the Native Hawaiian Inter-*
14 *agency Task Force, other Federal agencies, and with*
15 *relevant agencies of the State of Hawaii on policies,*
16 *practices, and proposed actions affecting Native Ha-*
17 *waiian resources, rights, or lands;*

18 *(5) be responsible for the preparation and sub-*
19 *mittal to the Committee on Indian Affairs of the Sen-*
20 *ate, the Committee on Energy and Natural Resources*
21 *of the Senate, and the Committee on Resources of the*
22 *House of Representatives of an annual report detail-*
23 *ing the activities of the Interagency Task Force estab-*
24 *lished under section 6 of this Act that are undertaken*
25 *with respect to the continuing process of reconcili-*

1 *ation and to effect meaningful consultation with the*
2 *Native Hawaiian people and the Native Hawaiian*
3 *government and providing recommendations for any*
4 *necessary changes to existing Federal statutes or regu-*
5 *lations promulgated under the authority of Federal*
6 *law;*

7 *(6) be responsible for continuing the process of*
8 *reconciliation with the Native Hawaiian people, and*
9 *upon the recognition of the Native Hawaiian govern-*
10 *ment by the United States as provided for in section*
11 *7(d)(2) of this Act, be responsible for continuing the*
12 *process of reconciliation with the Native Hawaiian*
13 *government; and*

14 *(7) assist the Native Hawaiian people in facili-*
15 *tating a process for self-determination, including but*
16 *not limited to the provision of technical assistance in*
17 *the development of the roll under section 7(a) of this*
18 *Act, the organization of the Native Hawaiian Interim*
19 *Governing Council as provided for in section 7(c) of*
20 *this Act, and the recognition of the Native Hawaiian*
21 *government as provided for in section 7(d) of this Act.*

22 *(c) AUTHORITY.—The United States Office for Native*
23 *Hawaiian Affairs is authorized to enter into a contract*
24 *with or make grants for the purposes of the activities au-*

1 *thorized or addressed in section 7 of this Act for a period*
 2 *of 3 years from the date of enactment of this Act.*

3 **SEC. 5. DESIGNATION OF DEPARTMENT OF JUSTICE REP-**
 4 **RESENTATIVE.**

5 *The Attorney General shall designate an appropriate*
 6 *official within the Department of Justice to assist the*
 7 *United States Office for Native Hawaiian Affairs in the*
 8 *implementation and protection of the rights of Native Ha-*
 9 *waiians and their political, legal, and trust relationship*
 10 *with the United States, and upon the recognition of the Na-*
 11 *tive Hawaiian government as provided for in section*
 12 *7(d)(2) of this Act, in the implementation and protection*
 13 *of the rights of the Native Hawaiian government and its*
 14 *political, legal, and trust relationship with the United*
 15 *States.*

16 **SEC. 6. NATIVE HAWAIIAN INTERAGENCY TASK FORCE.**

17 *(a) ESTABLISHMENT.—There is established an inter-*
 18 *agency task force to be known as the “Native Hawaiian*
 19 *Interagency Task Force”.*

20 *(b) COMPOSITION.—The Task Force shall be composed*
 21 *of officials, to be designated by the President, from—*

22 *(1) each Federal agency that establishes or im-*
 23 *plements policies that affect Native Hawaiians or*
 24 *whose actions may significantly or uniquely impact*
 25 *on Native Hawaiian resources, rights, or lands;*

1 (2) *the United States Office for Native Hawaiian*
2 *Affairs established under section 4 of this Act; and*

3 (3) *the Executive Office of the President.*

4 (c) *LEAD AGENCIES.—The Department of the Interior*
5 *and the Department of Justice shall serve as the lead agen-*
6 *cies of the Task Force, and meetings of the Task Force shall*
7 *be convened at the request of the lead agencies.*

8 (d) *CO-CHAIRS.—The Task Force representative of the*
9 *United States Office for Native Hawaiian Affairs estab-*
10 *lished under the authority of section 4 of this Act and the*
11 *Attorney General’s designee under the authority of section*
12 *5 of this Act shall serve as co-chairs of the Task Force.*

13 (e) *DUTIES.—The primary responsibilities of the Task*
14 *Force shall be—*

15 (1) *the coordination of Federal policies that af-*
16 *fect Native Hawaiians or actions by any agency or*
17 *agencies of the Federal Government which may sig-*
18 *nificantly or uniquely impact on Native Hawaiian*
19 *resources, rights, or lands;*

20 (2) *to assure that each Federal agency develops*
21 *a policy on consultation with the Native Hawaiian*
22 *people, and upon recognition of the Native Hawaiian*
23 *government by the United States as provided in sec-*
24 *tion 7(d)(2) of this Act, consultation with the Native*
25 *Hawaiian government; and*

(3) *to assure the participation of each Federal agency in the development of the report to Congress authorized in section 4(b)(5) of this Act.*

SEC. 7. PROCESS FOR THE DEVELOPMENT OF A ROLL FOR THE ORGANIZATION OF A NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL, FOR THE ORGANIZATION OF A NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL AND A NATIVE HAWAIIAN GOVERNMENT, AND FOR THE RECOGNITION OF THE NATIVE HAWAIIAN GOVERNMENT.

(a) *ROLL.—*

(1) *PREPARATION OF ROLL.—The United States Office for Native Hawaiian Affairs shall assist the adult members of the Native Hawaiian community who wish to participate in the reorganization of a Native Hawaiian government in preparing a roll for the purpose of the organization of a Native Hawaiian Interim Governing Council. The roll shall include the names of the adult members of the Native Hawaiian community who wish to become citizens of a Native Hawaiian government and who are—*

(A) *the lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on*

1 *or before January 1, 1893, and who occupied*
2 *and exercised sovereignty in the Hawaiian ar-*
3 *chipelago; or*

4 *(B) Native Hawaiians who were eligible in*
5 *1921 for the programs authorized by the Hawai-*
6 *ian Homes Commission Act (42 Stat. 108, chap-*
7 *ter 42) or their lineal descendants.*

8 (2) *CERTIFICATION AND SUBMISSION.—*

9 *(A) COMMISSION.—*

10 *(i) IN GENERAL.—There is authorized*
11 *to be established a Commission to be com-*
12 *posed of 9 members for the purpose of certi-*
13 *fying that the adult members of the Native*
14 *Hawaiian community on the roll meet the*
15 *definition of Native Hawaiian, as defined*
16 *in section 2(7)(A) of this Act.*

17 *(ii) MEMBERSHIP.—*

18 *(I) APPOINTMENT.—The Secretary*
19 *shall appoint the members of the Com-*
20 *mission in accordance with subclause*
21 *(II).*

22 *(II) REQUIREMENTS.—The mem-*
23 *bers of the Commission shall be Native*
24 *Hawaiian, as defined in section*
25 *2(7)(A) of this Act, and shall have ex-*

1 *pertise in the certification of Native*
2 *Hawaiian ancestry.*

3 (III) CONGRESSIONAL SUBMIS-
4 SION OF SUGGESTED CANDIDATES.—*In*
5 *appointing members of the Commis-*
6 *sion, the Secretary may choose such*
7 *members from among—*

8 (aa) *five suggested candidates*
9 *submitted by the majority leader*
10 *of the Senate and the minority*
11 *leader of the Senate from a list of*
12 *candidates provided to such lead-*
13 *ers by the chairman and vice*
14 *chairman of the Committee on In-*
15 *dian Affairs of the Senate; and*

16 (bb) *four suggested can-*
17 *didates submitted by the Speaker*
18 *of the House of Representatives*
19 *and the minority leader of the*
20 *House of Representatives from a*
21 *list provided to the Speaker and*
22 *the minority leader by the chair-*
23 *man and ranking member of the*
24 *Committee on Resources of the*
25 *House of Representatives.*

1 (B) *CERTIFICATION.*—*The Commission shall*
2 *certify that the individuals listed on the roll de-*
3 *veloped under the authority of this subsection are*
4 *Native Hawaiians, as defined in section 2(7)(A)*
5 *of this Act.*

6 (3) *PUBLICATION OF FINAL ROLL.*—*The Commis-*
7 *sion shall publish a final roll.*

8 (4) *EFFECT OF PUBLICATION.*—*The publication*
9 *of the final roll shall serve as the basis for the eligi-*
10 *bility of adult members listed on the roll to partici-*
11 *pate in all referenda and elections associated with the*
12 *organization of a Native Hawaiian Interim Gov-*
13 *erning Council and the Native Hawaiian government.*

14 (b) *RECOGNITION OF RIGHTS.*—*The right of the Native*
15 *Hawaiian people to organize for their common welfare and*
16 *to adopt appropriate organic governing documents is here-*
17 *by recognized by the United States.*

18 (c) *ORGANIZATION OF THE NATIVE HAWAIIAN IN-*
19 *TERIM GOVERNING COUNCIL.*—

20 (1) *ORGANIZATION.*—*The adult members listed*
21 *on the roll developed under the authority of subsection*
22 (i) *are authorized to—*

23 (A) *develop criteria for candidates to be*
24 *elected to serve on the Native Hawaiian Interim*
25 *Governing Council;*

1 (B) determine the structure of the Native
2 Hawaiian Interim Governing Council; and

3 (C) elect members to the Native Hawaiian
4 Interim Governing Council.

5 (2) *ELECTION.*—Upon the request of the adult
6 members listed on the roll developed under the author-
7 ity of subsection (a), the United States Office for Na-
8 tive Hawaiian Affairs may assist the Native Hawai-
9 ian community in holding an election by secret ballot
10 (absentee and mail balloting permitted), to elect the
11 membership of the Native Hawaiian Interim Gov-
12 erning Council.

13 (3) *POWERS.*—

14 (A) *IN GENERAL.*—The Native Hawaiian
15 Interim Governing Council is authorized to rep-
16 resent those on the roll in the implementation of
17 this Act and shall have no powers other than
18 those given to it in accordance with this Act.

19 (B) *FUNDING.*—The Native Hawaiian In-
20 terim Governing Council is authorized to enter
21 into a contract or grant with any Federal agen-
22 cy, including but not limited to, the United
23 States Office for Native Hawaiian Affairs within
24 the Department of the Interior and the Adminis-
25 tration for Native Americans within the Depart-

1 *ment of Health and Human Services, to carry*
2 *out the activities set forth in subparagraph (C).*

3 (C) *ACTIVITIES.*—

4 (i) *IN GENERAL.*—*The Native Hawai-*
5 *ian Interim Governing Council is author-*
6 *ized to conduct a referendum of the adult*
7 *members listed on the roll developed under*
8 *the authority of subsection (a) for the pur-*
9 *pose of determining (but not limited to) the*
10 *following:*

11 (I) *The proposed elements of the*
12 *organic governing documents of a Na-*
13 *tive Hawaiian government.*

14 (II) *The proposed powers and au-*
15 *thorities to be exercised by a Native*
16 *Hawaiian government, as well as the*
17 *proposed privileges and immunities of*
18 *a Native Hawaiian government.*

19 (III) *The proposed civil rights*
20 *and protection of such rights of the*
21 *citizens of a Native Hawaiian govern-*
22 *ment and all persons subject to the au-*
23 *thority of a Native Hawaiian govern-*
24 *ment.*

1 (ii) *DEVELOPMENT OF ORGANIC GOV-*
2 *ERNING DOCUMENTS.*—*Based upon the ref-*
3 *erendum, the Native Hawaiian Interim*
4 *Governing Council is authorized to develop*
5 *proposed organic governing documents for a*
6 *Native Hawaiian government.*

7 (iii) *DISTRIBUTION.*—*The Native Ha-*
8 *waiian Interim Governing Council is au-*
9 *thorized to distribute to all adult members*
10 *of those listed on the roll, a copy of the pro-*
11 *posed organic governing documents, as*
12 *drafted by the Native Hawaiian Interim*
13 *Governing Council, along with a brief im-*
14 *partial description of the proposed organic*
15 *governing documents.*

16 (iv) *CONSULTATION.*—*The Native Ha-*
17 *waiian Interim Governing Council is au-*
18 *thorized to freely consult with those mem-*
19 *bers listed on the roll concerning the text*
20 *and description of the proposed organic gov-*
21 *erning documents.*

22 (D) *ELECTIONS.*—

23 (i) *IN GENERAL.*—*The Native Hawai-*
24 *ian Interim Governing Council is author-*
25 *ized to hold elections for the purpose of rati-*

1 *ifying the proposed organic governing docu-*
 2 *ments.*

3 (ii) ASSISTANCE.—*Upon the request of*
 4 *the Native Hawaiian Interim Governing*
 5 *Council, the United States Office of Native*
 6 *Hawaiian Affairs may assist the Council in*
 7 *conducting such elections.*

8 (4) TERMINATION.—*The Native Hawaiian In-*
 9 *terim Governing Council shall have no power or au-*
 10 *thority under this Act after the time at which the*
 11 *duly elected officers of the Native Hawaiian govern-*
 12 *ment take office.*

13 (d) RECOGNITION OF THE NATIVE HAWAIIAN GOVERN-
 14 MENT.—

15 (1) PROCESS FOR RECOGNITION.—

16 (A) SUBMITTAL OF ORGANIC GOVERNING
 17 DOCUMENTS.—*The duly elected officers of the*
 18 *Native Hawaiian government shall submit the*
 19 *organic governing documents of the Native Ha-*
 20 *waiian government to the Secretary.*

21 (B) CERTIFICATIONS.—*The Secretary shall*
 22 *certify that the organic governing documents—*

23 (i) *were adopted by a majority vote of*
 24 *the adult members listed on the roll pre-*
 25 *pared under the authority of subsection (a);*

1 (ii) are consistent with applicable Fed-
2 eral law and the special trust relationship
3 between the United States and the native
4 people of the United States;

5 (iii) provide for the exercise of those
6 governmental authorities that are recognized
7 by the United States as the powers and au-
8 thorities that are exercised by other govern-
9 ments representing the indigenous, native
10 people of the United States;

11 (iv) provide for the protection of the
12 civil rights of the citizens of the Native Ha-
13 waiian government and all persons subject
14 to the authority of the Native Hawaiian
15 government, and to assure that the Native
16 Hawaiian government exercises its author-
17 ity consistent with the requirements of sec-
18 tion 202 of the Act of April 11, 1968 (25
19 U.S.C. 1302);

20 (v) prevent the sale, disposition, lease,
21 or encumbrance of lands, interests in lands,
22 or other assets of the Native Hawaiian gov-
23 ernment without the consent of the Native
24 Hawaiian government;

1 (vi) *establish the criteria for citizen-*
2 *ship in the Native Hawaiian government;*
3 *and*

4 (vii) *provide authority for the Native*
5 *Hawaiian government to negotiate with*
6 *Federal, State, and local governments, and*
7 *other entities.*

8 (C) *FAILURE TO ACT.—If the Secretary*
9 *fails to act within 90 days of the date that the*
10 *duly elected officers of the Native Hawaiian gov-*
11 *ernment submitted the organic governing docu-*
12 *ments of the Native Hawaiian government to the*
13 *Secretary, the certifications authorized in sub-*
14 *paragraph (B) shall be deemed to have been*
15 *made.*

16 (2) *FEDERAL RECOGNITION.—*

17 (A) *RECOGNITION.—Notwithstanding any*
18 *other provision of law, upon the certifications (or*
19 *deemed certifications) by the Secretary author-*
20 *ized in subparagraph (B), Federal recognition is*
21 *hereby extended to the Native Hawaiian govern-*
22 *ment as the representative governing body of the*
23 *Native Hawaiian people.*

24 (B) *NO DIMINISHMENT OF RIGHTS OR*
25 *PRIVILEGES.—Nothing contained in this Act*

1 *shall diminish, alter, or amend any existing*
2 *rights or privileges enjoyed by the Native Ha-*
3 *waiian people which are not inconsistent with*
4 *the provisions of this Act.*

5 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

6 *There is authorized to be appropriated such sums as*
7 *may be necessary to carry out the activities authorized in*
8 *sections 4, 6, and 7 of this Act.*

9 **SEC. 9. REAFFIRMATION OF DELEGATION OF FEDERAL AU-**
10 **THORITY; NEGOTIATIONS.**

11 *(a) REAFFIRMATION.—The delegation by the United*
12 *States of authority to the State of Hawaii to address the*
13 *conditions of Native Hawaiians contained in the Act enti-*
14 *tled “An Act to provide for the admission of the State of*
15 *Hawaii into the Union” approved March 18, 1959 (Public*
16 *Law 86–3; 73 Stat. 5) is hereby reaffirmed.*

17 *(b) NEGOTIATIONS.—Upon the Federal recognition of*
18 *the Native Hawaiian government pursuant to section*
19 *7(d)(2) of this Act, the United States is authorized to nego-*
20 *tiate and enter into an agreement with the State of Hawaii*
21 *and the Native Hawaiian government regarding the trans-*
22 *fer of lands, resources, and assets dedicated to Native Ha-*
23 *waiian use under existing law as in effect on the date of*
24 *enactment of this Act to the Native Hawaiian government.*

1 **SEC. 10. DISCLAIMER.**

2 *Nothing in this Act is intended to serve as a settlement*
3 *of any claims against the United States, or to affect the*
4 *rights of the Native Hawaiian people under international*
5 *law.*

6 **SEC. 11. REGULATIONS.**

7 *The Secretary is authorized to make such rules and*
8 *regulations and such delegations of authority as the Sec-*
9 *retary deems necessary to carry out the provisions of this*
10 *Act.*

11 **SEC. 12. SEVERABILITY.**

12 *In the event that any section or provision of this Act,*
13 *or any amendment made by this Act is held invalid, it is*
14 *the intent of Congress that the remaining sections or provi-*
15 *sions of this Act, and the amendments made by this Act,*
16 *shall continue in full force and effect.*

Amend the title so as to read: “A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes.”.

Union Calendar No. 541

106TH CONGRESS
2D SESSION

H. R. 4904

[Report No. 106–897]

A BILL

To express the policy of the United States regarding the United States relationship with Native Hawaiians, and for other purposes.

SEPTEMBER 26, 2000

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed